

in immediate conjunction with those prices: “In most areas of the country, state or local law does not require that you buy a container to surround the casket in the grave. However, many cemeteries require that you have such a container so that the grave will not sink in. Either a grave liner or a burial vault will satisfy these requirements.” The phrase “in most areas of the country” need not be included in this disclosure if state or local law in the area(s) where the provider does business does not require a container to surround the casket in the grave.

(d) *General provisions on legal and cemetery requirements*—(1) *Deceptive acts or practices*. In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for funeral providers to represent that federal, state, or local laws, or particular cemeteries or crematories, require the purchase of any funeral goods or funeral services when such is not the case.

(2) *Preventive requirements*. To prevent these deceptive acts or practices, as well as the deceptive acts or practices identified in §§ 453.3(a)(1), 453.3(b)(1), and 453.3(c)(1), funeral providers must identify and briefly describe in writing on the statement of funeral goods and services selected (required by § 453.2(b)(5)) any legal, cemetery, or crematory requirement which the funeral provider represents to persons as compelling the purchase of funeral goods or funeral services for the funeral which that person is arranging.

(e) *Provisions on preservative and protective value claims*. In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(1) Represent that funeral goods or funeral services will delay the natural decomposition of human remains for a long-term or indefinite time;

(2) Represent that funeral goods have protective features or will protect the body from gravesite substances, when such is not the case.

(f) *Cash advance provisions*—(1) *Deceptive acts or practices*. In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive

act or practice for a funeral provider to:

(i) Represent that the price charged for a cash advance item is the same as the cost to the funeral provider for the item when such is not the case;

(ii) Fail to disclose to persons arranging funerals that the price being charged for a cash advance item is not the same as the cost to the funeral provider for the item when such is the case.

(2) *Preventive requirements*. To prevent these deceptive acts or practices, funeral providers must place the following sentence in the itemized statement of funeral goods and services selected, in immediate conjunction with the list of itemized cash advance items required by § 453.2(b)(5)(i)(B): “We charge you for our services in obtaining: (specify cash advance items),” if the funeral provider makes a charge upon, or receives and retains a rebate, commission or trade or volume discount upon a cash advance item.

§ 453.4 Required purchase of funeral goods or funeral services.

(a) *Casket for cremation provisions*—(1) *Unfair or deceptive acts or practices*. In selling or offering to sell funeral goods or funeral services to the public, it is an unfair or deceptive act or practice for a funeral provider, or a crematory, to require that a casket be purchased for direct cremation.

(2) *Preventive requirement*. To prevent this unfair or deceptive act or practice, funeral providers must make an alternative container available for direct cremations, if they arrange direct cremations.

(b) *Other required purchases of funeral goods or funeral services*—(1) *Unfair or deceptive acts or practices*. In selling or offering to sell funeral goods or funeral services, it is an unfair or deceptive act or practice for a funeral provider to:

(i) Condition the furnishing of any funeral good or funeral service to a person arranging a funeral upon the purchase of any other funeral good or funeral service, except as required by law or as otherwise permitted by this part;

(ii) Charge any fee as a condition to furnishing any funeral goods or funeral

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services to a person arranging a funeral, other than the fees for: (1) Services of funeral director and staff, permitted by § 453.2(b)(4)(iii)(C); (2) other funeral services and funeral goods selected by the purchaser; and (3) other funeral goods or services required to be purchased, as explained on the itemized statement in accordance with § 453.3(d)(2).

(2) *Preventive requirements.* (i) To prevent these unfair or deceptive acts or practices, funeral providers must:

(A) Place the following disclosure in the general price list, immediately above the prices required by § 453.2(b)(4)(ii) and (iii): “The goods and services shown below are those we can provide to our customers. You may choose only the items you desire. If legal or other requirements mean you must buy any items you did not specifically ask for, we will explain the reason in writing on the statement we provide describing the funeral goods and services you selected.” Provided, however, that if the charge for “services of funeral director and staff” cannot be declined by the purchaser, the statement shall include the sentence: “However, any funeral arrangements you select will include a charge for our basic services” between the second and third sentences of the statement specified above herein. The statement may include the phrase “and overhead” after the word “services” if the fee includes a charge for the recovery of unallocated funeral provider overhead;

(B) Place the following disclosure in the statement of funeral goods and services selected, required by § 453.2(b)(5)(i): “Charges are only for those items that you selected or that are required. If we are required by law or by a cemetery or crematory to use any items, we will explain the reasons in writing below.”

(ii) A funeral provider shall not violate this section by failing to comply with a request for a combination of goods or services which would be impossible, impractical, or excessively burdensome to provide.

§ 453.5 Services provided without prior approval.

(a) *Unfair or deceptive acts or practices.* In selling or offering to sell funeral

goods or funeral services to the public, it is an unfair or deceptive act or practice for any provider to embalm a deceased human body for a fee unless:

(1) State or local law or regulation requires embalming in the particular circumstances regardless of any funeral choice which the family might make; or

(2) Prior approval for embalming (expressly so described) has been obtained from a family member or other authorized person; or

(3) The funeral provider is unable to contact a family member or other authorized person after exercising due diligence, has no reason to believe the family does not want embalming performed, and obtains subsequent approval for embalming already performed (expressly so described). In seeking approval, the funeral provider must disclose that a fee will be charged if the family selects a funeral which requires embalming, such as a funeral with viewing, and that no fee will be charged if the family selects a service which does not require embalming, such as direct cremation or immediate burial.

(b) *Preventive requirement.* To prevent these unfair or deceptive acts or practices, funeral providers must include on the itemized statement of funeral goods and services selected, required by § 453.2(b)(5), the statement: “If you selected a funeral that may require embalming, such as a funeral with viewing, you may have to pay for embalming. You do not have to pay for embalming you did not approve if you selected arrangements such as a direct cremation or immediate burial. If we charged for embalming, we will explain why below.”

§ 453.6 Retention of documents.

To prevent the unfair or deceptive acts or practices specified in §§ 453.2 and 453.3 of this rule, funeral providers must retain and make available for inspection by Commission officials true and accurate copies of the price lists specified in §§ 453.2(b)(2) through (4), as applicable, for at least one year after the date of their last distribution to customers, and a copy of each statement of funeral goods and services selected, as required by § 453.2(b)(5), for at